

ENVIRONMENTAL PROTECTION AGENCY
REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101



In the Matter of:

MONSANTO COMPANY,
JOHN F. QUEENY PLANT,
ST. LOUIS, MISSOURI
EPA ID NO. MOD004954111
Permittee.

RCRA APPEAL 89-39

CONSENT AGREEMENT

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R00107834
RCRA RECORDS CENTER

Preliminary Statement

1. This Agreement is made and entered by the United States Environmental Protection Agency (hereinafter EPA Region VII) and Monsanto Company (hereinafter Monsanto).

2. This Agreement shall be binding upon EPA Region VII and upon Monsanto and their directors, officers, employees, agents, successors and assigns.

3. Monsanto consents to and agrees not to contest EPA Region VII's authority to enter into this Agreement or to implement or enforce its terms.

Background

4. On November 8, 1989, in response to Monsanto's Part B application for a hazardous waste management permit for its John F. Queeny Plant, the Missouri Department of Natural Resources issued Monsanto a permit for the storage and incineration of hazardous waste, and EPA Region VII issued Monsanto a permit under the authority of the Hazardous and Solid Waste Amendments to RCRA (HSWA) for corrective action at the facility.

5. Monsanto timely filed a Petition for Review of certain terms of the EPA Region VII Permit with the Administrator of the EPA.

6. EPA Region VII and Monsanto met and agreed that Monsanto would submit to EPA Region VII a RCRA Facility Investigation (RFI) Workplan to comply with corrective action requirements provided in the Permit.

7. On or about October 17, 1990, Monsanto submitted to EPA Region VII the RFI Workplan, which EPA Region VII reviewed. Based on EPA Region VII comments, Monsanto supplemented the RFI Workplan in January of 1991, and on February 21, 1991 sent a letter to Morris Kay, Regional Administrator, EPA Region VII, clarifying and modifying certain conditions of the RFI Workplan.

8. On or about February 28, 1991, EPA Region VII approved the RFI Workplan submitted by Monsanto as satisfying the RFI Workplan requirements provided in the Permit.

9. On or about January 7, 1991, Monsanto formally notified the Missouri Department of Natural Resources (MDNR) that it was closing the hazardous waste incinerator at the John F. Queeny Plant.

10. On July 27, 1990, the EPA published in the Federal Register its proposed corrective action regulations.

Agreement

NOW, THEREFORE, EPA Region VII and Monsanto, in consideration of the foregoing, and intending to be legally bound hereby, agree as follows:

11. EPA Region VII agrees that the RFI Workplan submitted by Monsanto and approved by EPA Region VII is adequate to satisfy the RFI Workplan requirements of the Permit for the John F. Queeny facility.

12. EPA Region VII agrees that the closing of the incinerator at the John F. Queeny facility precludes the need for interim measures for the incinerator, and that the requirements of Permit Condition III.J pertaining to the incinerator are therefore of no legal force or effect.

13. Monsanto agrees that the proposed Corrective Action Rule published in the Federal Register July 27, 1990, provides definitions virtually identical to the definitions in the Permit and therefore agrees that Monsanto no longer disputes the definitions provided in the Permit.

14. The parties agree that the proposed Corrective Action Rule published in the Federal Register July 27, 1990, provides a role for the Permittee in proposing whether or not a Corrective Measures Study (CMS) should be required and, if a CMS is proposed, for proposing a preferred alternative from among the alternatives. Therefore, the parties further agree that the language of the proposed rule, if promulgated with provisions reflecting such a role, will supersede the challenged Permit conditions.

15. The parties agree that the typographical and clerical errors set forth on pages 23 and 24 of Monsanto's Petition for Review were intended to be as detailed therein.

In clarification of that agreement, the parties further agree that in Attachment C., Task I, paragraph D, page 30 of the Permit, it was intended that "address" follow the word "adequately," and that in Attachment C, Task II, paragraph A,1,d, page 32, it was intended that the words "as well as those" before the word "workers," be deleted.

16. Monsanto agrees that the foregoing moots the need for any further proceedings concerning the issues set forth in its Petition for Review.

17. The effective date of this Agreement shall be the date on which Monsanto withdraws its Petition for Review of the EPA RCRA permit. Withdrawal of the Petition for Review shall be deemed complete upon receipt by the EPA Chief Judicial Officer of Monsanto's written notification of withdrawal.

IT IS SO AGREED.

March 16, 1992
Date

Peter C. Wright
Monsanto Company
Peter C. Wright
Environmental Attorney

March 27, 1992
Date

Anne W. Rowland
Anne W. Rowland,
Assistant Regional Counsel
U.S. EPA
Region VII

April 6, 1992
Date

Lyndell L. Harrington
Lyndell L. Harrington, P.E.
Chief, Permit Section
RCRA Branch
Waste Management Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

August 31, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Maxine Lipeles, Esq.
Husch, Eppenberger, Donohue,
Cornfeld & Jenkins
100 N Broadway, Suite 1300
St. Louis, Missouri 63102

Re: Monsanto Company, John F. Queeny Plant
RCRA Appeal 89-39

Dear Ms. Lipeles:

Enclosed for your files is an executed copy of the Consent Agreement agreed upon by Monsanto Company and the Environmental Protection Agency.

Sincerely yours,

Venessa Cobbs
Venessa Cobbs
Regional Hearing Clerk

Enclosure

cc: Anne W. Rowland
Assistant Regional Counsel
U.S. Environmental Protection Agency

bcc: Pat Nichols/RCRA

RCRA FILE COPY
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